

REMARKS

The Examiner is thanked for the thorough examination of the present application. The Office Action mailed November 27, 2006 rejected claims 1-11, 13-22, 35-44, 47-56, and 59-62. This is a full and timely response to that outstanding Office Action. Upon entry of the amendments in this response, claims 1-11, 13-22, 35-44, 47-56, and 59-66 are pending. More specifically, claims 1, 13, 35, and 47 are amended and claims 63-66 are added. These amendments are specifically described hereinafter.

I. Present Status of Patent Application

Claims 1, 13, 35, and 47 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Loucks* (U.S. Patent No. 6,760,412) in view of *Langsenkamp* (U.S. Patent No. 6,556,664). Claims 1-5, 8-11, 13-22, 35-44, 46-56, and 59-62 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Loucks* (U.S. Patent No. 6,760,412) in view of *Chandra, et al.* (U.S. Publication No. 2002/0138582) in further view of *Langsenkamp* (U.S. Patent No. 6,556,664). Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Loucks* (U.S. Patent No. 6,760,412) in view of *Chandra, et al.* (U.S. Publication No. 2002/0138582) in further view of *Langsenkamp* (U.S. Patent No. 6,556,664) in further view of *Hogan, et al.* (U.S. Patent No. 5,646,982). These rejections are respectfully traversed.

II. Allowability of Claims 62-66

Applicant first respectfully contends that claims 63-66 add no new matter and that they contain features not disclosed in the references of record, making them certainly allowable at this point. No reference cited or combination thereof discloses or suggests claims 63-66 in their entirety. In other words, Applicant feels confident that the embodiments of the lengthy claims 63-66 are allowable over the cited references. Applicant submits that because of the uniqueness of the original claim elements, and especially those added into claims 63-66, claims 63-66 are clearly distinguished from all prior references. It is respectfully requested that the Examiner give serious consideration to allowing claims 63-66 in particular.

III. Examiner Interview

Applicant first wishes to express sincere appreciation for the time that Examiner Escalante spent with Applicant's representative Benjie Balser during a February 8, 2007 telephone discussion regarding the above-identified Office Action. During the interview, various features described in the patent application and recited in the independent claims, including selecting a message for retraction, and *Langsenkamp* were discussed, and that the outcome of this discussion is addressed herein. During that conversation, Examiner Escalante seemed to indicate that it would be potentially beneficial for Applicant to file this amendment and response. Thus, Applicant respectfully requests that Examiner Escalante carefully consider this amendment and response.

IV. Rejections Under 35 U.S.C. §103(a)

A. Claims 1-11 and 59

The Office Action rejects claim 1 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Loucks* (U.S. Patent No. 6,760,412) in view of *Langsenkamp* (U.S. Patent No. 6,556,664). The Office Action rejects claims 1-5, 8-11, and 59 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Loucks* (U.S. Patent No. 6,760,412) in view of *Chandra, et al.* (U.S. Publication No. 2002/0138582) in further view of *Langsenkamp* (U.S. Patent No. 6,556,664). The Office Action rejects claims 6 and 7 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Loucks* (U.S. Patent No. 6,760,412) in view of *Chandra, et al.* (U.S. Publication No. 2002/0138582) in further view of *Langsenkamp* (U.S. Patent No. 6,556,664) in further view of *Hogan, et al.* (U.S. Patent No. 5,646,982). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 1, as amended, recites:

1. A method of arranging for an electronically-recorded message to be delivered to a communication medium of a second user at a selected time, said method comprising:
 - recording the message by a first user on a stand-alone communication device in direct connection to a telephone line as customer premises equipment;
 - inputting an access code on the stand-alone communication device for accessing the communication medium of the second user; and
 - indicating a delivery time for delivery of the message from the stand-alone communication device to the communication medium of the second user, ***wherein the message is selectable for retraction by canceling delivery of the message before the delivery time.***

(Emphasis added).

Applicant respectfully submits that claim 1 patently defines over the cited art for at least the reason that the cited art does not disclose the features emphasized above. For a proper rejection of a claim under 35 U.S.C. §103, the cited combination of references must disclose, teach, or suggest all elements/features of the claim at issue. See, e.g., *In re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988) and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

Applicant respectfully submits that independent claim 1 is allowable for at least the reason that the combination of *Loucks*, *Chandra*, and *Langsenkamp* does not disclose, teach, or suggest at least **wherein the message is selectable for retraction by canceling delivery of the message before the delivery time**. Even if, *arguendo*, *Langsenkamp* discloses canceling a session, thereby retracting all messages in the session, *Langsenkamp* fails to disclose selecting a message for retraction. *Chandra* discloses a method for associating messages in computer storage. *Chandra* fails to disclose selecting a message for retraction. *Loucks* discloses sending event reminders via a telephone network. *Loucks* fails to disclose selecting a message for retraction. As the cited combination of references does not disclose, teach, or suggest, either implicitly or explicitly, all the elements of claim 1, the rejection should be withdrawn for at least that reason.

For at least the reason that independent claim 1 is allowable over the cited references of record, dependent claims 2-11 and 59 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 2-11 and 59 contain all the features of independent claim 1. See *Minnesota Mining and*

Manufacturing Co. v. Chemque, Inc., 303 F.3d 1294, 1299 (Fed. Cir. 2002)
Jeneric/Pentron, Inc. v. Dillon Co., 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000);
Wahpeton Canvas Co. v. Frontier Inc., 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, the rejection to claims 2-11 and 59 should be withdrawn and the claims allowed.

Additionally, with regard to the rejection of claims 6 and 7, *Hogan* does not make up for the deficiencies of *Loucks*, *Chandra*, and *Langsenkamp* noted above. Therefore, claims 6 and 7 are considered patentable over any combination of these documents.

B. Claims 13-22 and 60

The Office Action rejects claim 13 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Loucks* (U.S. Patent No. 6,760,412) in view of *Langsenkamp* (U.S. Patent No. 6,556,664). The Office Action rejects claims 13-22 and 60 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Loucks* (U.S. Patent No. 6,760,412) in view of *Chandra, et al.* (U.S. Publication No. 2002/0138582) in further view of *Langsenkamp* (U.S. Patent No. 6,556,664). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 13, as amended, recites:

13. A method of sending an electronically-recorded message to a communication medium of a second user at a selected time, said method comprises:

recording the message by a first user on a stand-alone communication device in direct connection to a telephone line as customer premises equipment;

inputting an access code on the stand-alone communication device for accessing the communication medium of the second user; indicating a delivery time for delivery of the message to a communication medium of the recipient second user; and sending the message from the stand-alone communication device to the communication medium of the recipient second user when the time reaches the delivery time, ***wherein the message is selectable for retraction by canceling delivery of the message before the delivery time.***

(Emphasis added).

Applicant respectfully submits that claim 13 patently defines over the cited art for at least the reason that the cited art does not disclose the features emphasized above. For a proper rejection of a claim under 35 U.S.C. §103, the cited combination of references must disclose, teach, or suggest all elements/features of the claim at issue.

Applicant respectfully submits that independent claim 13 is allowable for at least the reason that the combination of *Loucks*, *Chandra*, and *Langsenkamp* does not disclose, teach, or suggest at least ***wherein the message is selectable for retraction by canceling delivery of the message before the delivery time.*** Even if, *arguendo*, *Langsenkamp* discloses canceling a session, thereby retracting all messages in the session, *Langsenkamp* fails to disclose selecting a message for retraction. *Chandra* discloses a method for associating messages in computer storage. *Chandra* fails to disclose selecting a message for retraction. *Loucks* discloses sending event reminders via a telephone network. *Loucks* fails to disclose selecting a message for retraction. As the cited combination of references does not disclose, teach, or suggest, either implicitly or explicitly, all the elements of claim 13, the rejection should be withdrawn for at least that reason.

For at least the reason that independent claim 13 is allowable over the cited references of record, dependent claims 14-22 and 60 (which depend from independent claim 13) are allowable as a matter of law for at least the reason that dependent claims 14-22 and 60 contain all the features of independent claim 13. Therefore, the rejection to claims 14-22 and 60 should be withdrawn and the claims allowed.

C. Claims 35-44 and 61

The Office Action rejects claim 35 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Loucks* (U.S. Patent No. 6,760,412) in view of *Langsenkamp* (U.S. Patent No. 6,556,664). The Office Action rejects claims 35-44 and 61 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Loucks* (U.S. Patent No. 6,760,412) in view of *Chandra, et al.* (U.S. Publication No. 2002/0138582) in further view of *Langsenkamp* (U.S. Patent No. 6,556,664). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 35, as amended, recites:

35. A system for arranging for an electronically-recorded message to a communication medium of a second user at a selected time, said system comprising:
means for recording by a first user a message on a stand-alone communication device in direct connection to a telephone line as customer premises equipment;
means for inputting an access code on the stand-alone communication device for accessing a communication medium of the second user;
means for indicating a delivery time for delivery of the message to a communication medium of the second user; means for sending the message from the stand-alone communication device to the

communication medium of the second user when the time reaches the delivery time; and

means for selecting for retraction the message by canceling delivery of the message before the delivery time.

(Emphasis added).

Applicant respectfully submits that claim 35 patently defines over the cited art for at least the reason that the cited art does not disclose the features emphasized above. For a proper rejection of a claim under 35 U.S.C. §103, the cited combination of references must disclose, teach, or suggest all elements/features of the claim at issue.

Applicant respectfully submits that independent claim 35 is allowable for at least the reason that the combination of *Loucks*, *Chandra*, and *Langsenkamp* does not disclose, teach, or suggest at least **means for selecting for retraction the message by canceling delivery of the message before the delivery time**. Even if, *arguendo*, *Langsenkamp* discloses canceling a session, thereby retracting all messages in the session, *Langsenkamp* fails to disclose selecting a message for retraction. *Chandra* discloses a method for associating messages in computer storage. *Chandra* fails to disclose selecting a message for retraction. *Loucks* discloses sending event reminders via a telephone network. *Loucks* fails to disclose selecting a message for retraction. As the cited combination of references does not disclose, teach, or suggest, either implicitly or explicitly, all the elements of claim 35, the rejection should be withdrawn for at least that reason.

For at least the reason that independent claim 35 is allowable over the cited references of record, dependent claims 36-44 and 61 (which depend from independent claim 35) are allowable as a matter of law for at least the reason that dependent claims

36-44 and 61 contain all the features of independent claim 35. Therefore, the rejection to claims 36-44 and 61 should be withdrawn and the claims allowed.

D. Claims 47-56 and 62

The Office Action rejects claim 47 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Loucks* (U.S. Patent No. 6,760,412) in view of *Langsenkamp* (U.S. Patent No. 6,556,664). The Office Action rejects claims 47-56 and 62 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Loucks* (U.S. Patent No. 6,760,412) in view of *Chandra, et al.* (U.S. Publication No. 2002/0138582) in further view of *Langsenkamp* (U.S. Patent No. 6,556,664). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 47, as amended, recites:

47. A system for sending an electronically-recorded message to a communication medium of a second user at a selected time, said system comprising:

- means for recording by a first user a message on a stand-alone communication device in direct connection to a telephone line as customer premises equipment;
- means for inputting an access code on the stand-alone communication device for accessing a communication medium of the second user;
- means for indicating a delivery time for delivery of the message to a communication medium of the second user;
- means for keeping track of a clock time;
- means for sending the message from the stand-alone communication device to the communication medium of the second user when the time reaches the delivery time; and
- means for selecting for retraction the message by canceling delivery of the message before the delivery time.***

(Emphasis added).

Applicant respectfully submits that claim 47 patently defines over the cited art for at least the reason that the cited art does not disclose the features emphasized above. For a proper rejection of a claim under 35 U.S.C. §103, the cited combination of references must disclose, teach, or suggest all elements/features of the claim at issue.

Applicant respectfully submits that independent claim 47 is allowable for at least the reason that the combination of *Loucks*, *Chandra*, and *Langsenkamp* does not disclose, teach, or suggest at least **means for selecting for retraction the message by canceling delivery of the message before the delivery time**. Even if, *arguendo*, *Langsenkamp* discloses canceling a session, thereby retracting all messages in the session, *Langsenkamp* fails to disclose selecting a message for retraction. *Chandra* discloses a method for associating messages in computer storage. *Chandra* fails to disclose selecting a message for retraction. *Loucks* discloses sending event reminders via a telephone network. *Loucks* fails to disclose selecting a message for retraction. As the cited combination of references does not disclose, teach, or suggest, either implicitly or explicitly, all the elements of claim 47, the rejection should be withdrawn for at least that reason.

For at least the reason that independent claim 47 is allowable over the cited references of record, dependent claims 48-56 and 62 (which depend from independent claim 47) are allowable as a matter of law for at least the reason that dependent claims 48-56 and 62 contain all the features of independent claim 47. Therefore, the rejection to claims 48-56 and 62 should be withdrawn and the claims allowed.

V. Miscellaneous Issues

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for the particular and specific reasons that the claimed combinations are too complex to support such conclusions and because the Office Action does not include specific findings predicated on sound technical and scientific reasoning to support such conclusions.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-11, 13-22, 35-44, 47-56, and 59-66 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

It is believed that no extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to deposit account No. 20-0778.

Respectfully submitted,

/BAB/

Benjamin A. Balser, Reg. No. 58,169

**THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.**

Suite 1750
100 Galleria Parkway N.W.
Atlanta, Georgia 30339
(770) 933-9500
Customer No.: 38823